

REMARKS

Claim 1 has been amended to clarify that the pre-polymers A and B that individually compose the hydrolyzable segments of the biodegradable multi-block copolymer are randomly distributed in the polymer and are randomly connected to each other by multi-functional chain extenders. Support for this amendment is found, for example, in claim 24 which is now canceled as redundant, as well as on page 8, lines 27-30 (which lists randomly distributed segments in the polymers as an alternative to alternating segments), and on page 11, line 29-page 12, line 2. The advantages of such random distribution are noted on page 16, lines 8-14.

Thus, no new matter is added. Claims 28 and 29 and their dependent claims 37-38 and 40-41 have been canceled as inconsistent with the limitations of claim 1.

The lack-of-unity holding was based on the disclosure of Cohn, *et al.*, PCT publication WO98/02171. As is now made clear, the present claims are not anticipated by Cohn. Cohn describes only alternating multi-block copolymers, not random multi-block copolymers as now claimed.

As noted at the bottom of page 4 of Cohn, the polymers are based on ABA triblocks or AB diblocks and these *in the alternative* are chain extended using di-functional chain extenders. This would automatically result in alternating structures. Using Q as a symbol for the chain extender, they would have the formulas $(ABA-Q)_n$ or $(AB-Q)_n$. This is unlike the present invention where A and B are distributed randomly over the polymer chain — *e.g.*, ABBBBBABAAAABBAAAA, (with intervening Q's) for example.

Page 14 of Cohn also makes clear that the polymers are always composed of either ABA triblocks or AB diblocks and are thus of the foregoing formulas $(ABA-Q)_n$ or $(AB-Q)_n$, whereas in the present invention, the Q multi-functional linkers appear between the A and B components; thus,

the polymers of the present invention have random distribution such as AQBQBQBQAQABQBQAQBAQ, and the like.

Thus, Cohn does not anticipate the invention as now defined. In view of this, applicants respectfully request that the restriction requirement be withdrawn.

In the event that the Office does not agree, applicants provisionally elect the invention of Group I, claims 1-24.

As to the election of species, applicants hereby elect the species the polymer of Example 6, *i.e.*, 50(GA₅₀CL₅₀)₂₀₀₀-50(DL-LA)₄₀₀₀. The claims that read on the currently elected species are claims 1-3, 5-10, 12 and 16-23.

Reconsideration and rejoinder of all groups is respectfully requested.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket No. 313632002300.

Respectfully submitted,

Dated: January 27, 2010

By: _____ / Kate H. Murashige /
Kate H. Murashige
Registration No.: 29,959
MORRISON & FOERSTER LLP
12531 High Bluff Drive, Suite 100
San Diego, California 92130-2040
Telephone: (858) 720-5112